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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANGEL CAMPO RUBIO,

Defendant.

Case No.: 2:24-CR-00542-MEMF-1

**ORDER GRANTING DEFENDANT'S
MOTION TO SUPPRESS [ECF NO. 23]**

Before the Court is a Motion to Suppress filed by Defendant Angel Campo Rubio. ECF No. 23. For the reasons stated herein, the Court hereby GRANTS the Motion to Suppress.

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1 **I. Background**

2 **A. Factual Background¹**

3 On August 18, 2024, Officer Christopher Yuriar and Officer Timothy Preuss (the “Officers”)
4 from the Long Beach Police Department (“LBPd”) stopped a Kia Sorrento for driving with tinted
5 windows. ECF No. 23-2 (“LBPd Rpt.”) at 296. Defendant Angel Campo Rubio was the front seat
6 passenger. *See* ECF No. 20 (“Yuriar BC”). In response to Yuriar’s questioning, Rubio gave his first
7 and last name to Yuriar. *Id.* at 1:48-2:05. The Officers then returned to the patrol car and Yuriar
8 searched for warrants matching Rubio and the driver’s names. *Id.* at 2:30-7:00. Yuriar first typed in
9 Rubio’s name, then conducted a search on the driver, and then returned to searching warrants for
10 Rubio. *Id.* Yuriar found three misdemeanor warrants matching the name Angel Rubio, all of which
11 stated that the individual should not be arrested or booked based on the warrant. ECF No. 23-6.
12 Yuriar then stated to Preuss that he believed it was their “due diligence” to verify whether Rubio
13 matched any of the warrants. Yuriar BC at 6:30-6:40. The Officers then returned to the vehicle,
14 where Yuriar told Rubio that Rubio needed to get out of the car to verify whether he had a warrant
15 out on him. *Id.* at 7:00-7:30. Rubio denied having a warrant and offered his identification to Yuriar,
16 but Yuriar ordered him to get out of the vehicle. *Id.* After Rubio stepped out of the vehicle and gave
17 Yuriar his identification, Yuriar frisked Rubio and found two firearms on his person. *Id.*

18 **B. Procedural History**

19 On September 11, 2024, Rubio was indicted as a felon in possession of a firearm. ECF No.
20 10. On November 13, 2024, Rubio moved to suppress all evidence obtained as a result of the traffic
21 stop and resulting search of his person on August 18, 2024. ECF No. 23 (the “Motion”). On
22 November 27, 2024, the government filed its opposition. ECF No. 25 (“Opposition”). On December
23 5, Rubio filed his reply. ECF No. 26 (“Reply”). The parties waived an evidentiary hearing (ECF
24 Nos. 39, 41) and the Court heard oral argument on the matter on January 15, 2024.

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28 ¹ The Court’s summary here is gathered from facts and evidence submitted on the record.

1 **II. Applicable Law**

2 The Fourth Amendment protects people and their effects from unreasonable searches and
 3 seizures. U.S. Const. amend. IV. With limited exceptions, a search is unreasonable when law
 4 enforcement agents search a person or their possessions without a judicial warrant or individualized
 5 suspicion of wrongdoing. *United States v. McCarty*, 648 F.3d 820, 830 (9th Cir. 2011), *as amended*
 6 (Sept. 9, 2011). As applied in Fourth Amendment cases, the exclusionary rule generally requires
 7 courts to suppress any evidence obtained from an illegal search. *United States v. Ngumezi*, 980 F.3d
 8 1285, 1290 (9th Cir. 2020). “The government bears the burden of proving that a warrantless search
 9 or seizure falls within an exception to the warrant requirement.” *United States v. Job*, 871 F.3d 852,
 10 860 (9th Cir. 2017). The controlling standard of proof is by a preponderance of the evidence. *United*
 11 *States v. Matlock*, 94 S. Ct. 988, 996 n.14 (1974).

12 **III. Discussion**

13 For the reasons discussed below, the Court finds that while the Officers had reasonable
 14 suspicion to stop the vehicle, the stop was unconstitutionally prolonged and Yuriar’s frisk of Rubio
 15 was regardless unconstitutional. Accordingly, the Court GRANTS the Motion.

16 **A. There Was Reasonable Suspicion to Stop the Vehicle**

17 Rubio argues that the initial stop of the vehicle was not based on reasonable suspicion. In
 18 particular, Rubio notes that the passenger in the backseat has submitted a declaration that the two
 19 front windows were rolled down.² ECF No. 23-8 (“Barajas Decl.”) ¶ 6. Moreover, Rubio contends
 20 that based on the positions of the vehicle and the police car, it would not have been possible for the
 21 Officers to have seen the front windows.³ Motion at 9. Although it does not appear likely that the
 22 Officers saw the driver side window as the window was opposite to their field of vision prior to the
 23 stop, the Court finds it likely that the Officers did see the passenger side window as that would have
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25 ² Under California law, the restrictions on excessive tinting of windows does not apply to “side windows that
 26 are to the rear of the driver.” Cal. Veh. Code § 26708(b)(4).

27 ³ The Court notes that in the police report of the incident, Yuriar represented that he saw “extremely dark
 28 window tint” in violation of the law on both “the front driver and front passenger side windows,” but in the
 declaration submitted in support of the Opposition, only states that he saw the front window on the passenger
 side. *See* LBPDP Rpt. at 5; ECF No. 25-1 (“Yuriar Decl.”) ¶ 4.

1 been directly facing them when the car was turning. Moreover, when the vehicle was eventually
 2 stopped, although the driver side window was completely rolled down, the passenger-side window,
 3 where Rubio was sitting, was only partially rolled down.⁴ While Rubio contends that the car
 4 windows were objectively not as dark as the Officers claimed, the Court notes that the windows are
 5 obviously tinted, such that at a distance, it may not have been plausibly clear to the Officers whether
 6 the tint was excessive or not. Even if it became apparent to the Officers that the windows were not
 7 *excessively* tinted until *after* they stopped the car, this does not defeat reasonable suspicion to stop
 8 the car in the first place.

9 Accordingly, the Court finds there was reasonable suspicion to make the initial stop.

10 **B. The Officers Unconstitutionally Prolonged the Stop**

11 The Court finds that the Officers' search into warrants and attempt to match Rubio to a
 12 warrant unconstitutionally prolonged the stop without sufficient reasonable suspicion. Pursuant to
 13 the Supreme Court's holding in *Rodriguez v. United States*, an officer "may conduct certain
 14 unrelated checks during an otherwise lawful traffic stop," but "may not do so in a way that prolongs
 15 the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual."
 16 575 U.S. 348, 355 (2015). In *Rodriguez*, the extension of the stop was only by "seven to eight
 17 minutes" to conduct a dog sniff unrelated to the original traffic stop. *Id.* at 353. However, the
 18 Supreme Court emphasized that it is not how fast police officers can complete the tasks, but rather
 19 whether the time is added to the stop. *Id.* at 357.⁵ Here, Rubio contends that the warrant search on
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21 ⁴ At the hearing, defense counsel contended that as there were only two competing declarations on this factual
 22 issue, the government had not met their burden. However, the video footage is also in the record which the
 23 Court has considered and finds supports by a preponderance of the evidence that Yurjar had at least partially
 seen the window in question.

24 ⁵ Therefore, it is immaterial the precise amount of time the Officers spent investigating Rubio, as it is clear
 25 that at least some of this investigation was not done co-extensively with the tasks related to the traffic stop. To
 26 the extent that the government is arguing that the length of time spent investigating Rubio was minimal such
 27 that it was a "negligibly burdensome precaution" that an officer should be allowed to take, the Court notes
 28 that such "precautions" are only constitutional where they are related to the stop in question. *See Rodriguez*,
 135 U.S. at 356 (noting that while an officer "may need to take certain negligibly burdensome precautions in
 order to complete his mission safely," "[o]n-scene investigation into other crimes, however, detours from that
 mission" and "[s]o too do safety precautions taken in order to facilitate such detours"); *see also U.S. v. Evans*,
 786 F.3d 779, 787 (9th Cir. 2015) ("Such unrelated 'precautions,' which do not stem from the mission of the
 stop itself, [] cannot justify extending a traffic stop.").

1 the driver was conducted in less than a minute, and it was at this point that the “mission” of the
2 traffic stop was completed. Motion at 13. At the point that the warrant search on the driver was
3 completed, the Officers would have known whether or not the tint on the windows was excessive,
4 and whether or not the driver was legally and safely able to operate the vehicle. The Court finds that
5 this completes any possible mission of the traffic stop. *See Rodriguez*, 575 U.S. at 354 (explaining
6 that the mission of a traffic-stop is “to address the traffic violation that warranted the stop [] and
7 attend to related safety concerns”).

8 Moreover, although checking whether outstanding warrants exist against the driver is
9 considered an inquiry ordinary to a traffic stop (*id.* at 355), here, Yuriar conducted a warrant search
10 on Rubio, who was merely a passenger.⁶ While it makes sense that checking the status of the driver
11 “serve[s] the same objective as enforcement of the traffic code,” this logic does not carry over to
12 passengers. *Id.* (noting that a “warrant check makes it possible to determine whether *the apparent*
13 *traffic violater* is wanted for one or more previous traffic offenses”) (emphasis added); *see also U.S.*
14 *v. Landeros*, 913 F.3d 862, 868 (9th Cir. 2019) (“The identity of a passenger, however, will
15 ordinarily have no relation to a driver’s safe operation of a vehicle.”).⁷ Therefore, at the time that
16 Yuriar turned back to conducting a warrant search on Rubio, the Officers had already addressed both
17 the traffic violation, and attended to any related safety concerns. To the extent that there were
18 additional steps to be taken with addressing the traffic violation, they were not completed only
19 because the Officers became focused on investigating Rubio. *See Landeros*, 913 F.3d at 866 (noting
20 that it does not matter if the unrelated check is done before or after a warning is issued, because what
21 “matter[s] was the added time, not at what point, in the chronology of the stop, that time was
22 added”).

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25 ⁶ Although there appear to be out-of-circuit cases holding that such searches into passengers are
26 constitutional, the government cites no binding authority on this point. The government only cites *U.S. v.*
27 *Hylton*, where the Ninth Circuit held that a criminal history check of the sole person in the vehicle was
justified. 30 F.4th 842, 847 (9th Cir. 2022). There was no passenger at issue in *Hylton*.

28 ⁷ At least one district court post-*Rodriguez* has held that a stop was “unreasonably prolonged . . . by
conducting a record check” of a passenger. *U.S. v. Maffei*, 417 F. Supp. 3d 1212, 1221 (N.D. Cal. 2019).

1 According to Yuriar, there was a safety concern posed by Rubio because he had noticed that
 2 Rubio had (1) tattoos saying “ESL,” “Playboy Bunny,” and “FUCK LBPD,” and (2) there was a red
 3 bandana located near Rubio on the center console of the vehicle. Yuriar Decl. ¶ 8. Yuriar believed
 4 that ESL and Playboy Bunny were gang-affiliated tattoos, and given his experience with the gang,
 5 believed that there could be a safety concern. *Id.* However, as the Ninth Circuit noted in *Landeros*,
 6 further investigating the passenger “would not have made the officers any safer.” 913 F.3d at 868.
 7 Rather, “[e]xtending the stop, and thereby prolonging the officers’ exposure to [the defendant], was,
 8 if anything, ‘inversely related to officer safety.’” *Id.* To the extent that Yuriar believed it necessary
 9 to further investigate Rubio independent of the traffic stop because of his affiliation with a gang, this
 10 required independent reasonable suspicion. *See Evans*, 786 F.3d at 787 (“We recognize that an
 11 officer may prolong a traffic stop if the prolongation itself is supported by independent reasonable
 12 suspicion.”). The Court finds that the existence of tattoos and a red banana on its own do not form a
 13 basis for reasonable suspicion of any crime. Accordingly, the further investigation into Rubio was
 14 outside the scope of the traffic stop, and it undisputedly added time to the stop. Thus, the Court finds
 15 that the stop was unconstitutionally prolonged.⁸

16 **C. The Officers Lacked Reasonable Suspicion Rubio was Armed and Dangerous**

17 Even if the Officers had reasonable suspicion that Rubio had an outstanding warrant, the
 18 ensuing pat down must have been justified by reasonable suspicion that Rubio was armed and
 19 dangerous. “To establish reasonable suspicion a suspect is armed and dangerous, thereby justifying a
 20 frisk, ‘the police officer must be able to point to specific and articulable facts which, taken together
 21 with rational inferences from those facts, reasonably warrant that intrusion.’” *Thomas v. Dillard*, 818
 22 F.3d 864, 876 (9th Cir. 2016). “A mere inchoate and unparticularized suspicion or hunch that a
 23 person is armed and dangerous does not establish reasonable suspicion.” *Id.* (internal quotations and
 24 citations omitted). “Even in high crime areas, where the possibility that any given individual armed
 25 is significant, *Terry* requires reasonable, individualized suspicion before a frisk for weapons can be
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 28 ⁸ The Court therefore need not address whether the Officers had reasonable suspicion that the warrants found
 were for Rubio.

1 conducted.” *Id.* The Court finds that the further frisk of Rubio was not justified, as there was
2 insufficient reasonable suspicion to believe that Rubio was armed and dangerous.

3 Here, it appears Yuriar believed Rubio to be armed and dangerous because: (1) Rubio was
4 “uncooperative initially,” (2) Yuriar suspected Rubio to have active warrants, (3) Yuriar suspected
5 that Rubio was an active gang member, and (4) Yuriar suspected Rubio “may” have been in
6 possession of a firearm because he had baggy clothing. Yuriar Decl. ¶ 17; LBPD Rpt. at 6. However,
7 these beliefs do not add up to specific and articulable facts that support reasonable suspicion, even if
8 taken together. First, the Court notes that Rubio did give Yuriar his name initially, although he
9 refused to give further information as was his right. Moreover, upon coming back to talk to him
10 about verifying the warrants, Rubio spoke calmly in response to Yuriar and attempted to give him
11 further information to help confirm that the warrants were not for him. The fact that some of Rubio’s
12 tattoos may have been related to gangs is insufficient to create individualized suspicion. *See U.S. v.*
13 *Sigmond-Ballesteros*, 285 F.3d 1117, 1121 (9th Cir. 2002) (“[R]easonable suspicion may not be
14 based on broad profiles which cast suspicion on entire categories of people without any
15 individualized suspicion of the particular person to be stopped.”). There was also no reasonable
16 suspicion that Rubio was armed just because he was wearing baggy clothes—Yuriar does not state
17 that he saw any bulge or indication there was a weapon under the clothes, and the “baggy” clothes
18 themselves do not justify reasonable suspicion that an individual is armed. *See Job*, 871 F.3d at 861.
19 Considering the totality of the circumstances here, the Court does not find that the facts identified by
20 Yuriar support reasonable suspicion that Rubio was armed and dangerous.

21 **D. Exclusion of Evidence is Warranted**

22 At the hearing, the government acknowledged that exclusion would be warranted if the Court
23 made a finding that the search was unconstitutional and withdrew the arguments made in its briefing
24 to the contrary. Accordingly, the Court finds exclusion the proper remedy here.

25 **IV. Conclusion**

26 For the foregoing reasons, the Court GRANTS the Motion to Suppress.

27 The parties are ORDERED to meet and confer regarding further proceedings, including the
28 pending Motion to Dismiss, any pretrial filings, and the Final Pretrial Conference currently on

1 calendar. The parties are ORDERED to file a Joint Status Report by January 16, 2025, regarding
2 what further proceedings, if any, are to take place.

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4 IT IS SO ORDERED.



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6 Dated: January 15, 2025

7 MAAME EWUSI-MENSAH FRIMPONG

8 United States District Judge
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